MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS

Seventy-Eighth Session
March 31, 2015

The Committee on Legislative Operations and Elections was called to order by Chair Lynn D. Stewart at 3 p.m. on Tuesday, March 31, 2015, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website: www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Lynn D. Stewart, Chair
Assemblywoman Shelly M. Shelton, Vice Chair
Assemblyman Elliot T. Anderson
Assemblywoman Michele Fiore
Assemblyman John Moore
Assemblyman Harvey J. Munford
Assemblyman James Ohrenschall
Assemblywoman Victoria Seaman
Assemblyman Tyrone Thompson
Assemblyman Glenn E. Trowbridge

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Marilyn K. Kirkpatrick, Assembly District No. 1
Assemblywoman Victoria A. Dooling, Assembly District No. 41
Assemblyman David M. Gardner, Assembly District No. 9

STAFF MEMBERS PRESENT:

Carol M. Stonefield, Committee Policy Analyst
Kevin Powers, Committee Counsel
Patricia Hartman, Committee Secretary
Jamie Tierney, Committee Assistant

OTHERS PRESENT:

Joseph P. Gloria, Registrar of Voters, Clark County
Bradley Schrager, Attorney, Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP, Las Vegas, Nevada

Chair Stewart:
[Roll was taken.] We have four work session bills and hearings on two bills. We will start with Assembly Bill 177, and I will turn the time over to Ms. Stonefield.

Assembly Bill 177: Revises provisions governing elections. (BDR 24-627)

Carol M. Stonefield, Committee Policy Analyst:
Assembly Bill 177 was introduced in this Committee on March 3 and also in a work session before this Committee on March 26. [Referred to work session document (Exhibit C).] It makes various changes to statutes governing candidates for election, including the filling of vacancies and nominations and determining votes cast for a candidate who is ineligible to hold office. It relates to residency, filing a declaration or acceptance of candidacy that includes false statements, and challenging a person's candidacy. There is a mock-up amendment, and I believe our Committee Counsel is prepared to address that amendment.

Kevin Powers, Committee Counsel:
I will go through all of the changes from the mock-up that I discussed last time, as altered by the suggestions from Mr. Gloria on behalf of the election officials. There is a mock-up (Exhibit C) in your binder which includes the mock-up from the last work session plus the changes from the local election officials. In addition, there is a mini mock-up (Exhibit D) that adds another section to the mock-up. We will discuss the mini mock-up at the end.

Sections 1.5 and 3.5 of the mock-up define the term "ineligible candidate" for the elections code. That term has the same meaning throughout the provisions of Title 24 of the *Nevada Revised Statutes* (NRS).

Sections 2 and 18.5 require the county and city clerks to remove the name of an ineligible candidate from the ballot if the candidate becomes or is declared ineligible before the deadlines for making changes to the ballot. Those deadlines were provided by Mr. Gloria on behalf of the local election officials. They are now included in sections 2 and 18.5. In addition, if a candidate becomes ineligible after the time to make changes to the ballot, then the county and city clerks have a duty to provide notice to the voters. The notice must be provided in several fashions, but in accordance with the local election officials, we made the following changes. The notice must be provided either on or near the voting machines, and the notice must be included either on or with any paper or absentee ballot. This gives the local election officials discretion on how to provide that notice to the voters.

Sections 1.7 and 18.3 provide that any vote cast for an ineligible candidate is null and void and must not be given any legal force or effect for the purpose of determining the outcome of any elections. If the name cannot be removed from the ballot because the time for changing the ballot has passed, not only will the voters receive notice of the ineligibility, but any vote cast for the ineligible candidate will be null and void.

Sections 3, 4, and 4.5 address vacancies and nominations when there is an ineligible candidate. Section 3 provides that a political party may not fill a vacancy of nomination for a partisan office if the vacancy is caused because the candidate fails to meet any qualification for the office or is otherwise declared disqualified from office by a court of competent jurisdiction. Section 4 preserves the existing law with regard to vacancies and nominations for nonpartisan offices. Those vacancies may be filled up to the fourth Friday in June of the election year, which preserves existing law. Section 4.5 also preserves existing law with regard to vacancies and nominations for partisan offices when those vacancies are caused because the candidate dies or is adjudicated insane or mentally incompetent. For those reasons, a vacancy may be filled up to the fourth Friday in June of the election year. That also preserves existing law.

Sections 6, 7, 20, 23, and 29 of the mock-up change the district residency requirement for all candidates from 30 days under existing law to 180 days before the close of candidate filing. That is an extension from a one-month period to a six-month period.

Sections 8 and 29 change the state residency requirement for state legislators from one year before the date of election or employment to two years before the date of election or employment.

Sections 6, 8, 23, and 29 change the penalty to a category E felony for knowingly and willfully filing a declaration or acceptance of candidacy or declaration of residency which contains a false statement. In addition, as a further technical amendment, the same category E felony provisions will be added to NRS 293.177 and NRS 293C.185 to ensure consistency and uniformity in the law.

Sections 9 and 21 deal with the cutoff date for filing a preelection challenge to the qualifications of a candidate pursuant to NRS 293.182 and NRS 293C.186. Under existing law, the cutoff date is five days after the last day of the period for a person to withdraw their candidacy. The mock-up extends the period to the last Monday before the period when early voting begins for the general elections. The clerks requested that period be moved back. Mr. Gloria also wanted us to disclose that their local district attorney's office still has concerns that the period extends too far into the election cycle. They did not offer a different date, so presently the mock-up contains the date the clerks provided on Thursday, which is the last Monday before the period of early voting in the general election.

The mini mock-up (Exhibit D) adds a new section, section 2.5, and also revises sections 9, 21, and 30. These sections deal with a preelection challenge and provide specific remedies and penalties if a candidate is found to violate a qualification of office. Section 2.5 puts all the remedies and penalties in one section so that they are consistent throughout the NRS.

The court actions authorized by sections 9, 21, and 30 are some of the types of preelection challenges that could go on in a court. There are other types of preelection challenges, including actions for declaratory judgment and writs of mandamus. Those additional actions under section 2.5 would be subject to the same remedies and penalties. If a candidate is found ineligible, regardless of the type of action, the same remedies and penalties would occur, and the candidate would be declared ineligible. The candidate would be disqualified from entering the duties of the office, and the court could order the candidate to pay the attorney fees and costs of the party who brings the action. Section 2.5 would bring all the remedies and penalties together in one section, and all the actions would be subject to them. The goal is to create uniformity and consistency in the law.

Chair Stewart:
I will take a motion to amend and do pass Assembly Bill 177, and then we will have brief comments from Mr. Gloria. Do I have a motion?

> ASSEMBLYWOMAN SHELTON MOVED TO AMEND AND DO PASS ASSEMBLY BILL 177.
>
> ASSEMBLYWOMAN FIORE SECONDED THE MOTION.

Joseph P. Gloria, Registrar of Voters, Clark County:
As Mr. Powers stated, the Office of the Clark County District Attorney and the Office of the Attorney General expressed concerns relating to the deadline. It was explained to me that previously, private citizens were required to bring these types of challenges on their own, which was cost-prohibitive and also made it difficult for them to navigate through the judicial process. As was communicated to me by both groups, they would like to see the deadlines to remain the same for challenges as is currently in the language, which is five days after the last day to withdraw.

Chair Stewart:
We will take that into account, and it can either be amended on the floor or in the Senate. Thank you for all your help, Mr. Gloria.

Assemblyman Ohrenschall:
I want to thank the sponsor for addressing many of the concerns brought up at the hearing, but unfortunately, I am going to be voting no. The concerns I had at the hearing remain in the mock-up. I believe that the law should punish a dishonest candidate, but I do not believe that all of the voters who are members of that candidate's party should also be punished. That is what I see in Assembly Bill 177. I know our society has had a growth in independent, nonpartisan voters, but there are still many people who identify with the Democratic, Republican, Independent American, and Libertarian Parties and believe in their goals. My concern is that because of the dishonest actions of one person, all of the other people who affiliate with that party in a certain district are going to be punished.

Chair Stewart:
We will vote on the motion.

> THE MOTION PASSED. (ASSEMBLYMEN ELLIOT T. ANDERSON, MUNFORD, OHRENSCHALL, AND THOMPSON VOTED NO.)

The floor assignment for A.B. 177 is given to Assemblywoman Seaman. We will proceed with Assembly Bill 252.

Assembly Bill 252: Revises provisions relating to elections. (BDR 17-737)

Carol M. Stonefield, Committee Policy Analyst:
Assembly Bill 252 was heard in this Committee on March 19, and presented by Chair Stewart. [Referred to work session document (Exhibit E.] It creates the Legislative Advisory Commission on Reapportionment and Redistricting. The Commission will consist of five members. The bill proposes that each legislative caucus leader will appoint one member and the Chief Justice of the Nevada Supreme Court will appoint a member. No member shall hold an elective office at the time of appointment, and for at least five years after the plans are adopted, no member may run for an office of a district that is established by the Commission. The Commission will be subject to the Open Meeting Law, will take public testimony, and make its maps available to the public. The Commission is to prepare three sets of maps to submit to the Legislature, and the bill includes guidelines for drawing those maps.

There is an amendment that was approved by the Chair for consideration by the Committee, and there is a mock-up that makes the following changes. The appointment of a member of the Advisory Commission by the Chief Justice is deleted. That person was to have been the chair of the Commission, so the members will now elect their own chair. The date by which the Advisory Commission must submit its three reapportionment plans is changed from the 30th day of session to the 15th day after the receipt of census data from the U.S. Secretary of Commerce. Federal law requires that all census data is distributed to the states no later than April 1, and for the last two redistricting cycles, Nevada has been granted an early release of its data because of our 120-day session. There is no guarantee that will continue in the future.

Chair Stewart:
Do I have a motion to amend and do pass?

> ASSEMBLYWOMAN FIORE MOVED TO AMEND AND DO PASS ASSEMBLY BILL 252.
>
> ASSEMBLYWOMAN SEAMAN SECONDED THE MOTION.

Assemblyman Elliot T. Anderson:
I appreciate you taking the Supreme Court out of it. I can understand that because it is very important. I am not sure that this Commission is going to do

what we cannot do already. I do not feel comfortable delegating our power to this Commission. I am not in favor of this bill.

Assemblyman Thompson:
In regard to section 10, subsection 1, paragraph (c), subparagraph (3), one of my questions is about public review and public comment. I was hoping it would be more descriptive because it is a core part of this process to ensure that the public is involved. Section 11, subsection 2, paragraph (e) states that districts cannot be drawn with the "intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice." I understand the bill sponsors are able to do as they choose with an amendment, but I do not hear or see any way in which this issue was addressed, so I am voting no.

Kevin Powers, Committee Counsel:
Regarding Assemblyman Thompson's concerns in section 10, and the conduct of the meetings of the Advisory Commission, the Advisory Commission is set up like any other interim legislative committee. Section 10, subsection 1, paragraph (c) provides that the Advisory Commission shall conduct its meetings in the same manner as any other legislative committee created by specific statute. It will be staffed by the Legislative Counsel Bureau (LCB). Its public meetings will be conducted like any other interim legislative committee and will post agendas and notices, and conduct its proceedings accordingly.

Chair Stewart:
Thank you, Mr. Powers. All those in favor, please say aye.

> THE MOTION PASSED. (ASSEMBLYMEN ELLIOT T. ANDERSON, MUNFORD, OHRENSCHALL, AND THOMPSON VOTED NO.)

We will proceed with Assembly Bill 456.

Assembly Bill 456: Abolishes certain committees, boards, funds and panels. (BDR 38-551)

Carol M. Stonefield, Committee Policy Analyst:
Assembly Bill 456 was heard in this Committee on March 26 and contains recommendations from the Sunset Subcommittee of the Legislative Commission based on its work in the last interim. [Referred to work session document (Exhibit F).] The six boards that it is proposing to repeal are listed on the work session document. There are no proposed amendments. These six boards are considered inactive by the appointing authority, and many of them have no members and have not met in a number of years.

Chair Stewart:
This bill was presented by Assemblywoman Bustamante Adams, who did an excellent job of getting rid of those boards that are not being used. Do I have a motion to do pass?

ASSEMBLYMAN ELLIOT T. ANDERSON MOVED TO DO PASS ASSEMBLY BILL 456.

ASSEMBLYMAN THOMPSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Stewart:
Assemblywoman Bustamante Adams will provide the floor statement. We will continue with Assembly Bill 457.

Assembly Bill 457: Revises provisions governing reports required to be submitted by various entities. (BDR 1-937)

Carol M. Stonefield, Committee Policy Analyst:
The last bill before the Committee today is Assembly Bill 457. This bill was brought before the Committee by Assemblywoman Kirkpatrick. [Referred to work session document (Exhibit G).] It contains recommendations from the Legislative Commission and proposes to repeal a number of obsolete or redundant reports mandated by the Legislature. Those reports are listed in the work session document. There is a conceptual amendment attached. The sponsor indicated that one of the reports, relating to the number of people transported to medical facilities by fire departments and ambulances in Clark County, which is included for repeal, is a report that others have said they want to keep because it provides them information. The conceptual amendment removes section 18 from the bill.

Chair Stewart:
Do I have a motion to amend and do pass?

ASSEMBLYMAN THOMPSON MOVED TO AMEND AND DO PASS ASSEMBLY BILL 457.

ASSEMBLYWOMAN FIORE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

The floor statement will be presented by Assemblywoman Kirkpatrick. The work session is now closed. We will proceed with the hearing on Assembly Bill 381.

Assembly Bill 381: Revises provisions relating to elections. (BDR 24-966)

Assemblywoman Marilyn K. Kirkpatrick, Assembly District No. 1:
This seems moot since you just passed Assembly Bill 177, but I want to explain some history on this bill. This is not the first time that I brought a bill forward to address this issue. Last session, we tried to bring a bill to address this with Assemblyman Hickey, who at the time was the Assembly Minority Leader. This has been a growing pattern in our state since the early 1990s. I want to rectify the situation without harming the voters because one thing we want them to do, regardless of who they vote for, is to get out and vote. It is a simple and direct bill with a harsh penalty to ensure that people take it seriously. With me is Bradley Schrager, who has worked on this issue in the past and who will now go through the bill.

Bradley Schrager, Attorney, Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP, Las Vegas, Nevada:
Recognizing the legitimate public policy concern in this area, we attempted to draft a bill that would speak to that concern while balancing the interest of election administration, the voters, the political parties, and the candidates themselves. This all must be balanced in a certain way for democracy to work plausibly.

This bill does four different things. Sections 1, 2, and 5 recognize that it is a positive thing for election administrators for there to be a certain date after which ballots are not changed. Presently it is late June. This bill would set that date at July 31. The Clark County Registrar of Voters suggested the fourth Friday in July, which could fall from the 22nd to the 28th of that month, so I think we would also be okay with the last business day in July. This would add a full month to the process from current law.

Sections 3 and 6 repeal the five-day deadline for filing a written challenge or at least filing a challenge that would involve the Attorney General or the district attorney. Hearing what we did on the previous bill, and seeing some objection by the Clark County Registrar of Voters, we do not want to go along with them because this would be so open-ended that it might leave the possibility of a written challenge after the election. It may be possible to close this period at some point in the year as A.B. 177 did, which is mid-October. That would also provide an end date for the written challenges. Extending that period would also relieve some of the burden for individuals to carry these cases themselves

and lengthen the period within which the Attorney General and the district attorney could investigate and prosecute these cases.

Sections 3 through 6 also address the penalties in which attorney fees and costs would be awarded the prevailing party or the challenger and a fine of no less than $5,000. That means that whatever circumstances arose in court, a district court judge would have more leeway to have a penalty higher than $5,000 given the particular circumstances. This is a civil fine that could not be paid with campaign funds but would have to come out of personal funds.

Sections 4 and 7 give the court latitude to instruct the Secretary of State, county clerks, or city clerks to post signs regardless of the circumstances. Presently, posting signs pertain to the willfulness of a candidate's misrepresentation on the candidacy filing forms. Courts would be given wide latitude to construct avenues of notifying voters because over the last two cycles, there were three major instances where this public policy problem has reared its head. In the two instances where the challengers challenged ineligible candidates, they got their court orders and had time to use them in their campaign. Both of the individuals, Assemblywoman Seaman and Assemblywoman Shelton, won their races. The only instance that did not occur was in 2012, when the order and the ability to publicize that order came hours before the election itself and after early voting had closed. The widest possible ability for candidates to use court orders to their advantage during the campaign would be useful. In this bill, we tried to balance the various interests that exist in the electoral process, while offering deterrents and making it harder to game the system and making it cost dearly to those who might try.

Assemblyman Ohrenschall:
My question is for Mr. Schrager. I like the fact that the fine is so high and that it cannot be paid out of someone's campaign account but will hit his or her personal pocketbook. I like the alternative methods of communication because in talking with constituents, they did not notice the signs that were out at the early voting locations. If there are alternative methods, whether it be social media, text messages, or whatever other means that will be useful. Can you elaborate on how the bill is going to accomplish what we are trying to do and how it would dissuade the dishonest candidates?

Bradley Schrager:
In balancing the various interests of the participants in the process, we tried to focus on doing what had to be done, which was to deter one particular kind of conduct. We did not want to go beyond that because we are not in the business of reducing residency periods. For more than 40 years, residency periods in Nevada have been what they are; there are certain rights in place.

Reducing that has the effect of reducing current participation. We did not feel that was appropriate.

We did not want to fiddle with the counting of votes. We felt that uncontested elections are not positive experiences in democracy either. If someone wants to be our county commissioner or legislator, part of the task is to convince his or her neighbors that he or she deserves that public trust. That should be done, and we should have elections. You should have opponents.

This also goes to the notion of filling vacancies. If there is a time and opportunity to fill a vacancy, the voters and parties of this state deserve to have that opportunity because we should have contested elections. They are a contest of ideas. Let us have that contest among candidates and let the votes be counted as they are.

Assemblywoman Kirkpatrick:
This is not a partisan issue but is ensuring that the voters get the proper candidate who is in their district and who has the proper qualifications. We have seen people campaign for a judgeship who did not meet the qualifications, so this is more about a growing trend we have seen since the early 1990s. This is about making it more of a civil penalty so that there is not an early way to pay the fine and go on about your business. This is about ensuring that we have people who are serious about running for office and that we give voters a choice within their districts to choose who they want to run for office. This is our way of ensuring that if you do not meet the qualifications, there is a penalty you will pay out of your personal pocket, and that tends to sting a little bit more.

Assemblyman Ohrenschall:
As I understand it, the penalty is a minimum of $5,000 but can go higher depending on the decision of the court. We are starting at $5,000, which comes out of personal funds, correct?

Bradley Schrager:
This is correct. It is not less than $5,000, but depending on the circumstance, it can go higher.

Assemblywoman Seaman:
After an ineligible candidate was seated in 2012, why was nothing brought forward, and how does your bill remedy an ineligible candidate?

Assemblywoman Kirkpatrick:
That is a choice of the Assembly and the Assembly as a whole, not one party or the other who chooses together to seat that person. I do not want to make this personal because I want to rectify the problem just as much as you do. The Assembly had the ability to choose whether or not we seated that particular candidate. I did bring a bill along with Assembly Minority Leader Hickey, and we passed it unanimously out of the Assembly, only for it to be stalled in the Senate. It was not that we are not trying to address it. The bill from last session was more complicated and in-depth. The crux of the problem is to get the right candidates in place. That is why it is simpler this session because the story was they could not understand how it was going to work, and that is the difference in the current bill. It does not show any benefit by having a candidate who does not meet the qualifications and does not live in the district. I am a firm believer that if you do not live in the district, you do not know your constituents, and why would you be running in that district? However, we, as you do, rely on the declaration that they file. I have heard candidates say they can use their campaign dollars to pay for attorney fees, and the intent is not to let them have an easy way out.

This is not new to our state. In the 1990s, we had both Republicans and Democrats who had the same issue, and I believe it is in the best interest of this state to set an expectation because when you are an elected official, you are held to a higher standard. This is another attempt to ensure we fix it.

I would say, Mr. Chair, just because one bill leaves the Assembly does not mean it will pass in the Senate, so we should always have options. In the last session, we had two different residency bills, plus one that was combined, and all three of them did not pass. Regardless of whose bill or whose idea it is, this is a problem in our transient state that we need to rectify for the good of the candidates and the voters and to set higher expectations.

Assemblywoman Seaman:
The second part of my question is how does your bill take care of remedies? I am asking because this looks like a Band-Aid. What is the final solution? Are we going to seat an ineligible candidate again? This bill does not address that issue. It just addresses a slap on the wrist and that you are on your own, and whoever wins gets seated whether you are declared ineligible or not, which is what we have seen in the past. What is the remedy in this bill?

Bradley Schrager:
Compared to Assembly Bill 177, we did not seek to erase or invalidate the votes of any Nevadan. We relied on political and constitutional processes that are already in the law to handle that situation. You may disagree on how they have

been handled in the past or how they may be handled in the future. This bill was chosen to rely on those processes in the future.

Assemblyman Elliot T. Anderson:
Mr. Schrager, it seems that under any circumstance, and whatever measure is being considered, the court would issue an order either in this bill or Assemblywoman Seaman's bill that the Assembly, under its constitutional prerogative, could choose whether or not to listen to that court order. While you could say that we are not counting the votes, it could be decided whether to accept the court's determination if it was the correct ruling. Mr. Gloria testified they do not get rid of the votes but they are declared the presumptive winner. So the Assembly, under the *Nevada Constitution,* could still decide whether to accept that court's order de novo, correct?

Bradley Schrager:
I think these issues bring up the possibility of a clash between branches of government. I think that under A.B. 381, this clash is less likely than it would be under A.B. 177 because A.B. 381 does not seek to create any issues or questions around the validity of casting or counting of the ballots during the election. I also believe, because courts can be wrong and procedures can go astray, that the Supreme Court may, weeks or months later, disagree with the process by which someone has been found ineligible. The wrong standard may have been applied. I do not know how you trace your steps under A.B. 177 and count the votes that the Legislature said not to count. Eligibility appears to be different under A.B. 177 than under A.B. 381.

Assemblyman Elliot T. Anderson:
Maybe Mr. Powers can help me with this because either way, the *Nevada Constitution* gives us the power to judge the election. The election official cannot just get rid of votes. They would still be cast.

Kevin Powers, Committee Counsel:
The beginning point is the issue between the power of the court before the election and the power of one of the houses after the election. Prior to the election, if the district court enters a judgment declaring the candidate ineligible, then that is an enforceable judgment. Based on my research, the case law states that the supreme courts of most states indicate that an enforceable judgment entered by a district court prior to an election cannot be changed by the Legislature after an election. What A.B. 177 adds to that is if those votes are declared null and void, then the person who is not elected is not entitled to a certificate of election, and under existing Nevada law the only people who go before the Assembly to be seated are those who hold a certificate of election. The difference is that if a court enters that order before the election, the

candidate does not get his or her certificate of election under A.B. 177. The votes do not count, and there is no basis under current law or my research of the constitutional law for the Assembly to change the result of that election.

Assemblyman Moore:
Before the election, if you are declared ineligible, then you cannot be seated, correct? What if after the election something is discovered before you are sworn in; can you be seated after the election prior to the certificate being issued? In other words, there is a lapse between the election and when the candidate has been sworn in.

Kevin Powers:
If a court does not enter a judgment before the date of the general election and you have that issue after the general election, the court order would not have the same effect because the constitutional power of the Legislature is going to take effect after that election. Even if the candidate does not hold a certificate of election and has the greatest number of votes, it is the Assembly's decision to seat that candidate, because anything that occurs after the election falls within the power of the Assembly.

Assemblyman Moore:
Would you be open to an amendment that would close that loophole? Would it take the Assembly's ability to seat someone if they have been found to be ineligible after the election?

Kevin Powers:
That would be unconstitutional. The power of the Assembly under Article 4, Section 6 of the *Nevada Constitution* is an exclusive power to judge the qualifications in elections in terms of its members. Under the *Nevada Constitution*, Article 4, Sections 2 and 3, legislators take office the day after the election. That is when their terms begin. The power of the Assembly starts at the beginning of the term of each legislator, so it is at that point that the Assembly judges the election qualifications in terms of its members.

Assemblywoman Seaman:
We are not debating A.B. 177; it just passed. Why I chose to ask about this in A.B. 381 is because it can be partisan, and I think it needs to be remedied to nonpartisan.

Chair Stewart:
Is anyone in favor of the bill? [There was no one.] Is anyone opposed to the bill? [There was no one.] Is anyone neutral on the bill?

Joseph P. Gloria, Registrar of Voters, Clark County:
Clark County has an amendment (Exhibit H) to the bill on two different issues. We want to make the deadline in July more clear. We had suggested the deadline be the fourth Friday in July, but I have no issue with their suggestion of it being the last business day in July. That is more clear. We get calls from the public whenever language in the *Nevada Revised Statutes* (NRS) specifies a date that falls on a weekend, so it is better to make it on a business day.

Chair Stewart:
Is the deadline the last business day in July?

Joe Gloria:
Yes. I suggested the fourth Friday in July, but the last business day in July is fine.

The second portion of the amendment relates to the deadline. With this bill, we still have the same concern. This amendment retains the current deadline to file an election challenge in sections 3 and 6. If the deadline was removed, there would be another burden on election officials and district attorneys during election preparation time. The statute does provide that a court must give precedence in challenges. There are other statutes that command that courts give precedence as well. There is no guarantee that the election challenge would be heard immediately. The courts must provide reasonable time for both parties to gather documents and witnesses, which could increase the total time spent on a challenge. If a party appeals to the Nevada Supreme Court, there would be additional time spent in the process. By retaining the current deadline, which is five days after the withdrawal period, there would not be an undue burden on election officials and district attorneys while still affording those wishing to challenge a candidate an opportunity to do so.

Chair Stewart:
Is anyone else neutral on this bill? [There was no one.] The hearing is closed on A.B. 381. We will open the hearing on Assembly Joint Resolution 10.

Assembly Joint Resolution 10: Proposes to amend the Nevada Constitution to revise provisions relating to the compensation of certain elected officers. (BDR C-1068)

Assemblywoman Victoria A. Dooling, Assembly District No. 41:
With me is Assemblyman Gardner, who will be assisting me in introducing Assembly Joint Resolution 10. This resolution proposes to amend the *Nevada Constitution* to require that the Legislature establish by law the Citizens' Commission on Salaries for Certain Elected Officers. The resolution

provides for the appointment of the members of the Commission by legislative leaders, the Governor, and the Chief Justice of the Nevada Supreme Court. It provides for qualifications, terms of office for the Commission members, and duties of the Commission. This includes setting salary schedules for legislators, constitutional officers, and judges as well the requirement that the Commission hold meetings to receive public testimony.

Assembly Joint Resolution 10 also proposes to repeal the provision that limits legislators' compensation to the first 60 days of the regular session and the first 20 days of a special session. This is not a new proposal. The Legislature has been concerned with compensation of elected officials for the past 30 years.

In 1988 and 1991, the Legislature created commissions to study salaries of elected officials. In 1993, the Legislature added Chapter 281 to the *Nevada Revised Statutes* that created the Commission to Review the Compensation of Constitutional Officers, Legislators, Supreme Court Justices, Judges of the Court of Appeals, District Judges, and Elected County Officers. This commission issued a report in 1995, but there is little evidence that the commission continued to meet. Currently, it has no members and is considered inactive.

In 2000, Governor Kenny Guinn created a salary compensation task force through an executive order. Since 2001, we have seen three different proposals to amend the *Nevada Constitution* to create some kind of compensation commission. Why is there so much interest in a citizens' commission on compensation? I will let Governor Guinn's words answer that question. He said that "legislators, supreme court justices, district judges and elected county officers serve an important role in state and local government," and that "attracting and retaining experienced and competent persons to serve in these positions benefits the citizens of this State." Governor Guinn further stated that he was creating a task force to ensure that highly qualified persons continued to serve our citizens. The task force was charged to compare compensation provided to elected officials with compensation provided to persons with similar responsibilities and qualifications in the public and private sectors.

Regarding deficiency in current law, salaries for all constitutional officers, legislators, and judges are provided in the *Nevada Revised Statutes* (NRS). For constitutional officers and legislators, salaries are set and increases are tied to the increase in the salaries of classified employees. Graduated base salaries for judges are also provided. April 2 is the 60th day of this legislative session, and after Thursday you will not be paid a salary for your services. The last session that the Legislature met for fewer than 60 days was in 1960. This tells

you that this provision is out of date. I am bringing this resolution forward because I believe it is difficult for elected officials to have a serious and fact-based discussion about their own compensation. Too many interest groups criticize and bring pressure. They regard this as self-serving and fail to recognize the amount of time and effort it takes to serve our fellow citizens. Even when the Legislature created an advisory commission that is still in statute, that commission's recommendations had to be submitted to the Legislature for enactment. In the end, legislators were still forced to discuss and act on their own salaries.

I suggest instead that a Citizens' Commission on Salaries conduct a study, compare the duties with the salaries, and determine a reasonable and fair compensation for each office. In my proposal, because this Commission is independent of executive, judicial, or legislative approval, it would have the authority to fix a schedule after taking testimony at a minimum of four public meetings. All meetings of the Commission would be subject to the Open Meeting Law. The Commission will be prohibited from diminishing the salary of an officeholder during the term of office. It cannot increase or decrease a salary for a particular position by more than 15 percent over the previous salary schedule.

In conclusion, I believe in good government, and I think this is a good-government proposal. We are fortunate when highly-qualified individuals are willing to seek office and serve the people. They should not have to suffer financially while performing this service. I believe the people should have a voice regarding the salaries and benefits afforded to their elected officials. Informed public debate can be expected to arrive at reasonable compensation.

Since this is a proposed amendment to the *Nevada Constitution*, people will be asked if they want to participate in this debate. I think we should trust their will. I urge you to pass A.J.R. 10 and let the people decide.

Assemblyman David M. Gardner, Assembly District No. 9:
This idea is on based on 24 or 25 other states that want to take the power out of the Legislative Branch's hands and give it to a committee that would be able to look at it in a nonpartisan and fact-based manner. Many of the Western states, and other states throughout the country, have this type of program. The main idea is that the legislators should not be setting their own salaries. We want to have experts and fact-based discussions that do not involve the people who actually do the work. I agree with Assemblywoman Dooling that it is awkward to say that I want to vote myself a raise. This legislation will prevent that situation. We will not have to deal with it but will be giving it to

a citizens group that will be allowed to increase or decrease our salaries as they see fit.

Assemblyman Thompson:
Concerning lines 16 to 28 on page 2 of the resolution, what is your thought process on the members of the Commission? Normally when there are commissions and boards, there is representation from the majority and minority members, but this section states there would be two members appointed by the Speaker of the Assembly, two members appointed by the Majority Leader of the Senate, and so forth.

Assemblyman Gardner:
This section was taken from Arkansas' law. I do not have any issues adding that to this resolution. It sounds like a good idea.

Assemblyman Thompson:
I have seen in some that one representative is appointed by the Speaker, one by the Minority Leader, one each by the Senate Majority and Minority Leaders, and so forth.

Assemblywoman Dooling:
Yes, that would be fine.

Assemblyman Elliot T. Anderson:
There is merit to this proposal. I feel as uncomfortable talking about it as anyone here. None of us are in it for the money. There is nothing wrong with letting the public decide. When they do not understand what we do, they can go to the commission and figure out what we are worth and we can accept the outcome. There is nothing wrong with letting the public decide in that instance.

Assemblywoman Dooling:
There are charts and other information posted on the Nevada Electronic Legislative Information System(NELIS) [(Exhibit I) and (Exhibit J)] showing dates and information on the number of days served by Nevada legislators. The *Nevada Constitution* was amended in the 1950s to pay the legislators for 60 days of the session. You can see how long it has been, and thank you for offering your statement because I believe the provision is out of date.

Assemblyman Gardner:
This is similar to Senate Joint Resolution No. 8 of the 77th Session in that it would help to adjust some of these issues. It is prepared in that same type of mind-set.

Chair Stewart:
Are there any other questions? [There were none.] Does anyone wish to speak in favor of A.J.R. 10? [There was no one.] Is anyone opposed to this bill? [There was no one.] Is anyone neutral on this bill? [There was no one.] Assemblywoman Dooling, would you like to make your closing statement?

Assemblywoman Dooling:
Thank all of you for listening, and I think it is a great resolution. I also thank Assemblyman Gardner for his hard work on it.

Chair Stewart:
The hearing on Assembly Joint Resolution 10 is closed. Is there any public comment? [There was none.] This meeting is adjourned [at 4:05 p.m.].

RESPECTFULLY SUBMITTED:

_____
Patricia Hartman
Committee Secretary

APPROVED BY:

_____
Assemblyman Lynn D. Stewart, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Legislative Operations and Elections

Date: March 31, 2015 **Time of Meeting: 3 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 177	C	Carol M. Stonefield, Committee Policy Analyst	Work session document
A.B. 177	D	Kevin Powers, Committee Counsel	Mini mock-up
A.B. 252	E	Carol M. Stonefield, Committee Policy Analyst	Work session document
A.B. 456	F	Carol M. Stonefield, Committee Policy Analyst	Work session document
A.B. 457	G	Carol M. Stonefield, Committee Policy Analyst	Work session document
A.B. 381	H	Joe Gloria, Registrar of Voters, Clark County	Proposed amendment
A.J.R. 10	I	Assemblywoman Dooling	Legislature chart
A.J.R. 10	J	Assemblywoman Dooling	Survey of Nevada Legislators